

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

SCOTT R. DETLOFF,

Petitioner,

v.

DAVID ORTIZ,

Respondent.

HONORABLE JEROME B. SIMANDLE

Civil Action
No. 17-1716 (JBS)

OPINION AND ORDER

SIMANDLE, Chief Judge:

Pro se Petitioner Scott R. Detloff has submitted a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, application to proceed *in forma pauperis*, and request for an expedited briefing schedule.

1. Based on Petitioner's affidavit of indigency and certified account statement, the application to proceed *in forma pauperis* is granted.

2. After reviewing the petition pursuant to the rules governing habeas proceedings, the Court shall order Respondent to answer the petition.

3. Petitioner challenges the Bureau of Prisons' calculation of his federal sentence. He asserts that he would be eligible for release on July 2, 2017 if the Court grants his petition. Request for Expedited Schedule, Docket Entry 1-1.

4. Petitioner's administrative remedy was exhausted as of October 13, 2015. Petition Exhibit 19. A prior § 2241 petition

challenging the calculation was filed in the District Court for the Middle District of Florida on March 16, 2016, and was dismissed after Petitioner voluntarily withdrew his petition. Request for Expedited Schedule ¶ 1 (citing *Detloff v. Warden, FCC Coleman - Low*, No. 5:16-cv-00137 (M.D. Fla. June 16, 2016)). The United States had already filed an answer to the petition at the time of the withdrawal. *Id.*

5. Although there is not long before the date on which Petitioner claims to be eligible for release, the short amount of time is entirely Petitioner's doing. He chose to wait nearly a year before refiling his petition in this district after choosing to voluntarily withdraw his prior petition. The United States has already expended its time and resources answering the petition. The Court will not require it to do so again on an expedited basis due to Petitioner's actions, nor will it unnecessarily waste scarce judicial resources expediting a case that had been ripe for decision prior to the voluntary withdrawal.

THEREFORE, IT IS on this 17th day of April, 2017;

ORDERED that Petitioner's application to proceed *in forma pauperis* is GRANTED. The Clerk shall file the petition; and it is further

ORDERED that the Clerk of the Court shall serve copies of the Petition and this Opinion and Order upon Respondent David Ortiz by regular mail, with all costs of service advanced by the United States; and it is further

ORDERED that the Clerk of the Court shall forward a copy of the Petition and this Opinion and Order to Chief, Civil Division, United States Attorney's Office, at the following email address: USANJ-HabeasCases@usdoj.gov; and it is further

ORDERED that Petitioner's Request for Expedited Briefing Schedule (Docket Entry 1-1) is DENIED; and it is further

ORDERED that, within 30 days of the date of entry of this Order, Respondent shall electronically file an answer which responds to the allegations of the Petition paragraph by paragraph and which includes all affirmative defenses Respondent seeks to invoke; and it is further

ORDERED that the answer shall state the statutory authority for Petitioner's detention, see 28 U.S.C. § 2243; and it is further

ORDERED that Respondent shall electronically file with the answer certified copies of the administrative record and all documents relating to Petitioner's claim; and it is further

ORDERED that, within 20 days of receipt of the answer, Petitioner may file and serve a reply to the answer; and it is finally

ORDERED that within 7 days of Petitioner's release, be it on parole or otherwise, Respondent shall electronically file a written notice of the same with the Clerk; and it is finally

ORDERED that the Clerk shall send a copy of this Opinion and Order to Petitioner by regular mail.

April 17, 2017
Date

s/ Jerome B. Simandle
JEROME B. SIMANDLE
Chief U.S. District Judge